

Claims

4. The claims have been amended: Claims 27-37 have been canceled and Claims 38-48 have been substituted in their place.

Claim 38. A method of enhancing the equity of a business entity by joining a debt instrument of said business entity to a share or shares of equity of said business entity by issuing or conveying the right to a sum certain in money to be paid on a specified date to said share or shares of equity of said business entity and in return said business entity receives adequate consideration in money's worth in the form of equity enhancement of said business entity's own equity and by issuing or conveying the right to the fixed rate of interest of said debt instrument of said business entity to said share or shares of equity of said business entity, whereby the right to said sum certain in money and the right to the fixed rate of interest of said debt instrument cannot be separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity, whereby the shareholder of equity of said business entity exchanges no money or property for said debt instrument, whereby the right to said sum certain in money and the right to the fixed rate of interest of said debt instrument of said business entity cannot be owned by the shareholder of equity of said business entity, comprising;

 said debt instrument of said business entity formed by said business entity giving a written unconditional promise to pay said sum certain in money to the shareholder of record of said share or shares of equity of said business entity and to pay the fixed rate of interest to the shareholder of record of said share or shares of equity of said business entity,

 said share or shares of equity of said business entity,

 said business entity to issue or convey the right to said sum certain in money to said share or shares of equity of said business entity and in return said business entity receives adequate consideration in money's worth in the form of equity enhancement of said share or shares of equity of said business entity,

 said business entity to issue or convey the right to the fixed rate of interest of said debt instrument of said business entity to said share or shares of equity of said business entity,

said business entity prohibits the right to said sum certain in money from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits the right to the fixed rate of interest of said debt instrument of said business entity from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits the shareholder of said share or shares of equity of said business entity from exchanging any money or property for the right to said sum certain in money,

said business entity prohibits the right to said sum certain in money from being owned by the shareholder of said share or shares of equity of said business entity,

said business entity prohibits the right to the fixed rate of interest of said debt instrument of said business entity from being owned by the shareholder of said business entity from being owned by the shareholder of said share or shares of equity of said business entity. *add*

Claim 39. A method of enhancing the equity of a business entity by issuing a debt instrument of said business entity to a share or shares of equity of said business entity, comprising;

said debt instrument having a written unconditional promise to pay a sum certain in money on a specified date to the shareholder of record of said share or shares of equity of said business entity and having a fixed rate of interest to be paid to the shareholder of record of said share or shares of equity of said business entity,

said share or shares of equity of said business entity,

said business entity to issue or convey the right to said sum certain in money to said share or shares of equity of said business entity and in return said business entity receives adequate consideration in money's worth in the form of equity enhancement of said share or shares of equity of said business entity,

said business entity to issue or convey the right to said fixed rate of interest to said share or shares of equity of said business entity,

said business entity prohibits the right to said sum certain in money from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits the right to said fixed rate of interest from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits the right to said sum certain in money from being owned by the shareholder of said share or shares of equity of said business entity,

said business entity prohibits the right to said fixed rate of interest from being owned by the shareholder of said share or shares of equity of said business entity, *wherein*

said fixed rate of interest is tax deductible to said business entity.

Claim 40. A method of enhancing the equity of a business entity by issuing a debt instrument of said business entity to a share or shares of equity of said business entity, comprising;

said debt instrument having a written unconditional promise to pay a sum certain in money on a specified date to the shareholder of record of said share or shares of equity of said business entity and having a fixed rate of interest to be paid to the shareholder of record of said share or shares of equity of business entity,

said share or shares of equity of said business entity,

said business entity to issue or convey in writing the right to said sum certain in money to said share or shares of equity of said business entity and in return said business entity receives adequate consideration in money's worth in the form of equity enhancement of said share or shares of equity of said business entity,

said business entity to issue or convey in writing the right to said fixed rate of interest to said share or shares of equity of said business entity,

said business entity prohibits in writing the right to said sum certain in money from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits in writing the right to said fixed rate of interest from being separated from said share or shares of equity of said business entity to be sold or traded separate from said share or shares of equity of said business entity,

said business entity prohibits in writing the right to said sum certain in money from being owned by the shareholder of said share or shares of equity of said business entity,

said business entity prohibits in writing the right to said fixed rate of interest from being owned by the shareholder of said share or shares of equity of said business entity, *whereas*

said fixed rate of interest is tax deductible to said business entity.

Claim 21. The method or process of claim 38, comprising said debt instrument that cannot be separated from said share or shares of equity of said business entity except by said business entity paying said sum certain in money to the shareholder of equity of said business entity or to exchange another debt instrument of said business entity that is issued to said share or shares of equity of said business entity and said another debt instrument of said business cannot be owned by the shareholder of equity of said business entity.

Claim 22. The method or process of claim 38, comprising said debt instrument of said business entity that pays said fixed rate of interest to the shareholder of record of equity of said business entity, whereby a portion of said fixed rate of interest is tax deductible to said business entity.

Claim 23. The method or process of claim 38, comprising said sum certain in money that said business entity can amortize.

Claim 24. The method or process of claim 39, comprising said debt instrument that cannot be separated from said share or shares of equity of said business entity except by said business entity paying said sum certain in money to the shareholder of equity of said business entity or to exchange another debt instrument of said business entity that is issued to said share or shares of equity of said business entity and said another debt instrument of said business entity cannot be owned by the shareholder of equity of said business entity.

Claim 25. The method or process of claim 39, comprising said sum certain in money that said business entity can amortize.

Claim 46. The method or process of claim 40, comprising said debt instrument that cannot be separated from said share or shares of equity of said business entity except by said business entity paying said sum certain in money from assets of said business entity to the shareholder of equity of said business entity or to exchange another debt instrument of said business entity that is issued to said share or shares of equity of said business entity and said another debt instrument of said business entity cannot be owned by the shareholder of equity of said business entity.

Claim 47. The method or process of claim 40, comprising said sum certain in money that said business entity can amortize.

Claim 48. The method or process of claim 40, comprising said business entity to secure with the assets of said business entity said sum certain in money to be paid the shareholder of record on said specified date.

Conclusion

The claims have been amended by the Applicant in accordance with the instruction supplied by the Examiner in the last detailed action. The claims are now all process claims and none of the amended claims have any apparatus claimed. Therefore, the Applicant submits the claims should now be considered allowable.

Request For Constructive Assistance

5. The undersigned has made a diligent effort to amend the claims of this application so that they will comply structurally. If, for any reason, the claims of this application are not believed to be in full condition of allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting acceptable claims pursuant to MPEP 707.07(3) or in making constructive suggestions pursuant to MPEP 706.03 (d) in order that this application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Very Respectfully,

Durham R. Maples
Applicant Pro Se
1507 Park Circle
Camden, S.C.

I hereby certify that this correspondence will be deposited with U.S. Postal Service by Express Mail, postage Prepaid, in an envelope addressed to Commissioner of Patents and Trademarks Washington, D.C. 20231 on the date below.

Date: April 22, 2002

Inventor's Signature: Durham Russell Maples



Art Unit: 2161

DETAILED ACTION

RECEIVED

APR 25 2002

Technology Center 2100

Response to Amendment

1. This Office action is in response to Applicant's RCE/amendment filed on 12/31/2001.
2. Claims 17-26 are canceled and claims 27-37 are added.

NOTE

3. Applicant is advised to remove "means for" in the claims because a method claim should not recite "a means plus function", and therefore, the rejection below is provided. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 17-26 are rejected under 35 U.S.C. 112 second paragraph because a single claim which claims both an apparatus and the method steps of using the apparatus is indefinite. See, *In Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990), in which a claim directed to an

Application/Control Number: 09/629,749

Art Unit: 2161

automatic transmission workstand and the method steps of using it was held to be ambiguous and properly rejected under 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 17-26 are rejected under 35 U.S.C. 101 based on the theory that the claim is directed to neither a "process" nor a "machine", but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only.

Conclusion

8. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Monday, Tuesday and Wednesday from 5:30AM. to 6:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9769.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks